

REMARKS

This Amendment is in response to the Examiner's January 12, 2004 Office Action. In response to the Office Action, the applicants have amended claims 1, 13, and 18 in accordance with the Examiner's suggestions. Further, the specification has been changed as requested by the Examiner. Claims 1 through 21 remain in the Application for examination by the Examiner.

The Examiner objected to the specification regarding the use of the term VELCRO without the corresponding trademark format. The specification has been amended to capitalize and indicate VELCRO as a trademark. The Examiner also objected to the specification because in the Examiner's opinion the term self-securing strap was broader than the original disclosure. The applicants respectfully traverse this objection because the simple mechanical design of the securing mechanism was predictable. Thus, the applicants assert that one of ordinary skill in the art would consider self-securing to be part of the originally disclosed invention. However, to expedite the prosecution of this case, the applicants have amended the specification in accordance with the Examiner's request and changed the term self securing to hook-and-loop.

In light of the above, the applicants respectfully request that the Examiner withdraw the objections to the specification.

The Rejection under 35 U.S.C. § 112, first paragraph.

In the August 20, 2003 Final Office Action, the Examiner rejected claims 1-21 for containing "subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention." In particular, the Examiner is of the opinion that the recitation of "greater than about 6 inches" was not sufficiently disclosed. The applicants respectfully traverse this rejection.

As an initial matter, the applicants point out that the specification disclosed any diameter by the statement: “While almost any dimensional configuration is possible, one effective bunt aid has an outer diameter d of about 6 inches for conventional baseball bats and 7 inches for conventional softball bats Notice, the dimensions are largely a matter of design choice.” Thus, because any potential diameter is disclosed, limiting the diameter to a minimum of 6 inches is also disclosed. However, once again to expedite the prosecution of the present invention, the applicants have amended claims 1, 13, and 18 to recite the Markush group limitation that the outer diameter is selected from a group consisting of about 6 inches and about 7 inches, which as the Examiner admits is specifically disclosed in the specification.

Because the claims no longer recite the greater than language, but rather recite language expressly disclosed in the specification, the applicants respectfully request the Examiner withdraw the rejection of the claims under 35 U.S.C. § 112, first paragraph.

The Rejection under 35 U.S.C. § 102(b)

The Examiner rejected claims 1, 2, 4-11, 13-16, 18, and 20 under 35 U.S.C. § 102(b) as being anticipated by United States Patent Number 3,169,019 (“Genjack”). The applicants respectfully traverse the rejection. In particular, the Examiner stated “inasmuch as applicant has shown and defined a cup having a diameter greater than about 6 inches, Genjack also shows a cup having a diameter greater than 6 inches.” The applicants respectfully submit the Examiner is reading too much into the Genjack reference. First, the applicants expressly state the present invention has an outer diameter of about 6 or about 7 inches in a preferred embodiment thereof, as admitted by the Examiner in the action. In contrast, Genjack does not disclose any specific size for the outer diameter of the cup. In fact, Genjack at most discloses “the cup is relatively small” (See Genjack at column 1, line 5). Further, referring specifically to FIG. 2, Genjack shows a representative device in relation to a human palm. The Genjack device

shown clearly has a diameter less than the width of a human palm. As can be verified by most anatomy books, the width of the average human palm is significantly less than about 6 inches. Typically, the human palm is about 4 inches in width. Thus, Genjack clearly discloses a device having a diameter much less than the recited diameter of about 6 or 7 inches. The remaining references are similarly silent regarding an outer diameter. Nor has the Examiner supplied any motivation, teaching, disclosure, or suggestion in the references of record to modify the Genjack device into a larger device, which seems contradictory to the quoted teaching of Genjack in any event.

In view of the above, the applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 1, 2, 4-11, 13-16, 18, and 20 under 35 U.S.C. § 102(b) as being anticipated by Genjack.

The Rejection under 35 U.S.C. § 103(a)

The Examiner rejected claims 3, 12, 19, and 21 under 35 U.S.C. § 103(a) as being unpatentable and obvious over Genjack. Claims 3, 12, 19, and 21 depend, either directly or indirectly, from claims 1, 13, and 18. By virtue of the dependency, claims 3, 12, 19, and 21 are all patentably distinct from Genjack either alone or in any reasonable combination with the other references of record.

Conclusion

The applicants respectfully request that the Examiner consider the rejection of the claims in light of the above. The applicants submit that claims 1-21 are presently in condition for allowance and that no new matter has been introduced by this response.

If an extension of time under 35 C.F.R. § 1.136 is required to obtain entry of this Amendment, such an extension is requested. If there are fees due under 37 U.S.C. §§ 1.16 or 1.17 which are not otherwise accounted for, please charge our Deposit Account No. 08-2623.

Respectfully submitted this 70 day of February 2004.



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